

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for Authority to Establish Its Authorized Rate of Return on Common Equity for Electric Utility Generation and Distribution Operations and Gas Distribution for Test Year 2006. U 39 M

Application 05-05-006
(Filed May 9, 2005)

Application of Southern California Edison Company (U 338-F) for Authorized Capital Structure, Rate of Return on Common Equity, Embedded Cost of Debt and Preferred Stock, and Overall Rate of Return for Utility Operations for 2006.

Application 05-05-011
(Filed May 9, 2005)

Application of San Diego Gas & Electric Company (U 902-M) for Authority to: (i) Increase its Authorized Return on Common Equity, (ii) Adjust its Authorized Capital Structure, (iii) Adjust its Authorized Embedded Costs of Debt and Preferred Stock, (iv) Increase its Overall Rate of Return, and (v) Revise its Electric Distribution and Gas Rates Accordingly, and for Related Substantive and Procedural Relief.

Application 05-05-012
(Filed May 9, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON NOTICE OF INTENT TO CLAIM COMPENSATION**

I. Summary

This ruling addresses a notice of intent (NOI) to claim compensation filed jointly by Aglet Consumer Alliance (Aglet) and The Utility Reform Network

(TURN). As discussed herein, Aglet and TURN have met the relevant requirements, including significant financial hardship, and are eligible to claim compensation in this proceeding.

II. Background

Aglet and TURN filed a joint Notice of Intent (NOI) to claim compensation in this proceeding on July 13, 2005, pursuant to Pub. Util. Code § 1804(a)(1).¹

To be found eligible to claim compensation in this proceeding, the NOI must be filed within 30 days after a Prehearing Conference (PHC) is held and served on all parties to the proceeding. The NOI must identify the customer category for which the party seeks eligibility, provide a statement of the nature and extent of planned participation in the proceeding, provide an itemized estimate of the compensation it expects to request, and may demonstrate the existence of a significant financial hardship.

There was no filed opposition to Aglet and TURN's joint NOI to claim compensation in this proceeding.

III. Prehearing Conference

The PHC in this proceeding was held on June 16, 2005. Aglet and TURN filed their joint NOI on July 13, 2005, and served a copy on all parties of record. Hence, Aglet and TURN have satisfied the requirement that an NOI must be filed within 30 days after a PHC is held and served on all parties to the proceeding.

¹ All statutory references are to the Public Utilities Code.

IV. Customer Category

Pursuant to Decision (D.) 98-04-059,² a party seeking eligibility to claim compensation must identify the percent of its membership that is residential ratepayers and demonstrate whether it is a Category I, II, or III customer.³ Category I is a party that is representing consumers, Category II is a party authorized by a customer, and Category III is a representative of a group or organization.

A. Aglet

Aglet is an unincorporated nonprofit association organized to represent and advocate the interests of residential and small commercial customers of electric, gas, water, and telephone utilities in California. Aglet represents the specific interests of small customers of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E).⁴

Aglet is a Category III customer as defined by § 1802(b) and has satisfied the customer criteria set forth in D.98-04-059.

B. TURN

TURN is organized to represent and advocate the interests of consumers of public utility services in California. TURN's members include many customers

² Re: Rulemaking and Investigation into the Intervenor Compensation Program, D.98-04-059, *mimeo.*, pp. 83 and 88, (1988).

³ The term "customer" is defined in § 1802(b).

⁴ All of Aglet's members are residential utility customers. Approximately 30% of Aglet's members also operate small businesses with separate energy utility service.

of PG&E, SCE, and SDG&E.⁵ TURN qualifies as a customer because it is an organization that is authorized by its articles of incorporation to represent the interests of consumers, a portion of whom we have determined to be residential customers.

TURN is a Category III customer as defined by § 1802(b) and has satisfied the customer criteria set forth in D.98-04-059.

V. Planned Participation

Aglet and TURN identified their planned participation in this proceeding, as required by § 1804(a)(2)(A)(i). Aglet and TURN's participation in this proceeding will include the conducting of discovery, preparing testimony, defending their testimony in hearing, cross-examining witnesses, and filing briefs and other pleadings, as necessary.

Aglet and TURN have satisfied the planned participation criteria set forth in § 1804(a)(2)(A)(i).

VI. Estimated Compensation Request

Aglet and TURN submitted an itemized estimate of compensation that they expect to request for their participation in this proceeding, pursuant to § 1804(a)(2)(A)(ii). The total amount of their estimated request is \$98,280 as detailed below.

⁵ TURN provided the relevant portions of its articles of incorporation in its NOI in Application (A.) 98-02-017. The articles of incorporation of TURN do not specifically refer to residential customers. However, its articles of incorporation authorize it to represent consumers of public utilities services. TURN has approximately 30,000 dues paying members, the majority of which are residential ratepayers. TURN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available.

Category	Hours	Rate	Total
Aglet's Weil	150	\$280	\$42,000
Aglet Weil's Travel	20	140	2,800
Aglet's Compensation Time	12	140	1,680
TURN Finkelstein	10	425	4,250
TURN's Goodson	90	220	19,800
Consultant Czahar	60	240	14,400
Consultant Reid	60	200	12,000
Office and Travel Costs			1,350
TOTAL			\$98,280

Aglet and TURN have filed a reasonable estimate of their expected compensation in this proceeding, pursuant to § 1804(a)(2)(A)(ii).

VII. Significant Financial Hardship

Section 1802(a)(2)(B) allows a customer to include in either its NOI or its request for an award of compensation a showing that its participation will pose a significant financial hardship. A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding, pursuant to § 1804(b)(1).

In support of their joint request, Aglet and TURN demonstrated that they received a significant financial hardship finding on August 3, 2004 in Application 04-05-021. That finding of significant financial hardship created a rebuttal presumption of eligibility for compensation in other Commission proceedings commencing prior to August 3, 2005, pursuant to § 1804(b)(1). Because this consolidated proceeding commenced on May 9, 2005 and prior to the expiration of Aglet and TURN's rebuttal presumption of eligibility, a presumption of significant financial hardship exists for Aglet and TURN in this proceeding.

VIII. Coordination Among Parties

Each party who intends to seek intervenor compensation should ensure that its efforts complement or supplement but do not duplicate the efforts of other parties with similar interests. Parties requesting compensation should discuss amongst themselves and the Commission staff the issues each will address to promote efficiency in their showings.

Merely appearing, stating a position, and cross-examining will not assure compensation. Parties seeking intervenor compensation must demonstrate that their participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the Administrative Law Judge or the Commission in resolving this proceeding.

IT IS RULED that:

1. Aglet Consumer Alliance (Aglet) is a Category III customer as that term is defined in § 1802(b) and has met the eligibility requirements of § 1804(a) and is found eligible to apply for compensation in this proceeding.
2. Aglet has demonstrated a rebuttal presumption that it will face a significant financial hardship in this proceeding.

3. The Utility Reform Network (TURN) is a Category III customer as that term is defined in § 1802(b) and has met the eligibility requirements of § 1804(a) and is found eligible to apply for compensation in this proceeding.

4. TURN has demonstrated a rebuttal presumption that it will face a significant financial hardship in this proceeding.

5. This ruling does not address whether intervenor compensation will actually be granted to any party.

Dated July 28, 2005, at San Francisco, California.

/s/ MICHAEL J. GALVIN

Michael J. Galvin
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling On Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated July 28, 2005, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda Pulmano

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.